



Appeal Decision

Site Visit made on 18 March 2021

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 April 2021

Appeal Ref: APP/K3415/W/20/3260842

Barn at Church Hill, Weeford, Lichfield, WS14 0PW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Robert Piper (Sidley Piper) against the decision of Lichfield District Council.
 - The application Ref 20/00737/COU, dated 8 June 2020, was refused by notice dated 11 August 2020.
 - The development proposed is the change of use of existing Dutch barn to a single dwelling, with minor extensions to the existing footprint.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council considers that the proposed development would represent a redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development. In such a case, the proposal would not be inappropriate development in the Green Belt. Having considered the information that is before me in this respect and from my own observations during my site visit, I have no reason to take a different view.
3. The appellant has submitted amended plans with the appeal which seek to overcome the Council's second reason for refusal. However, the Procedural Guide - Planning Appeals – England advises at Annex M.2.1 that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.
4. Furthermore, to proceed on the basis of the amended plans would be contrary to the 'Wheatcroft Principles'¹ in that it would deprive those who should have been consulted on the changed development of the opportunity of such consultation.
5. Therefore, I must determine this appeal on the basis of the plans on which the Council made its decision and on which consultation was carried out. In this respect I note the appellant's comments regarding a subsequent application they have submitted to the Council, but that situation does not justify my accepting of amended plans into the appeal process which would prejudice the interests of other parties.

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

6. An addendum to the structural survey has been provided with the appeal and I am satisfied that accepting this document would not cause prejudice to any interested party, for reasons that will become apparent.

Main Issues

7. The main issues are (i) whether the proposal would constitute an acceptable form of development with particular regard to the provisions of local policy in respect of the location of development and (ii) the effect of the proposed development on the living conditions of the occupiers of adjacent dwellings, with particular reference to overlooking.

Reasons

Location

8. Core Policy 1 of the Local Plan Strategy 2015 (LPS) seeks to ensure that growth is located at the most accessible and sustainable locations in accordance with the settlement hierarchy. Core Policy 6 of the LPS states that in rural areas residential development consisting of changes of use and conversion schemes will be permitted. The Rural Areas Supplementary Planning Document 2015 (Rural Areas SPD) further states that buildings for residential conversion should be structurally sound and capable of conversion without substantial alteration or extension.
9. Whilst the original structural report dated 2019 and the addendum provided with the appeal suggest the building is capable of conversion, they do not definitively demonstrate that this would be achievable. Notably, matters relating to the ability of the existing steel frame to support the new roof and first floor loading would need to be subject to detailed structural analysis and design.
10. This leaves considerable uncertainty as to the extent of works that would be required and whether the proposal would be a conversion or a new build. This uncertainty means that the proposal must be considered to fail to accord with Core Policy 6 of the LPS which would only permit a change of use or conversion in the remaining rural areas and not a new build. This consequently also results in a conflict with Core Policy 1 and with the Rural Areas SPD.
11. The reason for refusal also refers to Policies Rural 1 and 2 but it is unclear from the information before me as to how these policies relate specifically to the settlement of Weeford. Both policies however refer to meeting local need and no substantive evidence is before me in that respect.

Living conditions

12. The appeal site shares a boundary with residential properties formed through the conversion of a former farm complex. Those dwellings are located at a substantially lower ground level but have windows in their elevations that face towards the appeal site together with private garden areas. The proposal would extend the existing building closer to the common boundary and would incorporate windows and a balcony facing towards the existing dwellings.
13. The Sustainable Design Supplementary Planning Document 2015 (Design SPD) sets out the distances that should be achieved between new dwellings and existing dwellings. Due to the difference in ground levels between the site and

the adjacent dwellings, the SPD requires a separation distance of 29 metres between principal windows, 14 metres between a principal window and a private garden and 18 metres between a balcony and a garden area.

14. The proposal would meet with the Design SPD distance with respect to facing windows. However, it would be a metre short in terms of the distance between the window to the master bedroom and the garden of the adjacent dwellings and 5 metres short with respect to the distance from the balcony and boundaries with the gardens. Although there are trees along this common boundary, they would not provide adequate screening all year round.
15. The window to the master bedroom would consist of full-height glazing covering most of the side elevation, thus increasing the potential for vision out of this room. Furthermore, the distance between the proposed balcony and the garden areas of the adjacent dwellings would be substantially less than that required by the Design SPD. This proximity would lead to significant harm to the living conditions of the occupiers of the existing adjacent dwellings from overlooking.
16. I therefore conclude that the failure to meet with the requirements of the Design SPD would mean that the proposed windows and balcony to the master bedroom would be located in a position that would cause significant harm to the living conditions of the occupiers of adjacent dwellings from overlooking. Consequently, the proposal would fail to accord with Core Policy 3 and Policy BE1 of the LPS where they seek to protect living conditions.

Other Considerations

17. Weeford is a small settlement which, with the exception of a church, village hall and restaurant, does not provide any services and facilities for its residents. It is not close to other settlements and its unlit country roads are not conducive for pedestrian or cyclist use. No suggestion has been made that the settlement is served by public transport. Therefore, occupiers of the appeal proposal would be heavily reliant on the use of private motor vehicles to access day to day services.
18. However, there is an existing building on the site which has previously been used for commercial purposes. Such a use would also have had a reliance on trips to and from the site by motor vehicles. The building is in a prominent location on a main entrance road to Weeford and the site is currently overgrown and in a generally poor state of repair, meaning that there would be visual improvements resulting from the proposed development. Irrespective of whether it was a conversion or a new build, the building would take the same overall form as the existing building and its general relationship to the surrounding pattern of development would remain unchanged.
19. Furthermore, there is support for making an effective use of land and prioritising the use of previously developed land in Section 11 of the National Planning Policy Framework (The Framework). The proposal would also provide one new dwelling and there would be some economic and social benefits arising from this, albeit these would be limited due to the small scale of the development and the supply of deliverable sites that exists in the district.
20. Taken together, I afford these considerations substantial weight in support of the proposal.

21. I acknowledge the previous decisions² relating to the appeal site. As have I, in both previous cases the Inspector found that there would be reliance on the use of private motor vehicles to travel to and from the site. However, the first appeal referred to the construction of two new build dwellings and the second to one new build dwelling. In both cases the Inspector judged that the impact on the openness of the Green Belt rendered the proposal to be inappropriate development, with the resultant harm that this brings and the need for very special circumstances to be demonstrated.
22. There have been a number of other appeal decisions provided by both parties but these too serve mainly to illustrate that, in considering the merits of a planning proposal, there will be different considerations which need to be weighed in the planning balance by the decision maker. Therefore, whilst I have had regard to all of these decisions, including those relating to the appeal site itself, I must determine the appeal before me primarily upon its own individual merits.

Planning Balance & Conclusion

23. The proposal would fail to accord with Core Policies 1 and 6 of the LPS and with the Rural Areas SPD where they refer to the location and type of new development permissible in rural areas and with Core Policy 3 and Policy BE1 of the LPS and the Design SPD where they seek to protect the living conditions of the occupiers of the adjacent dwellings. There may also be conflict with Policies Rural 1 and Rural 2 which require need to be demonstrated. As a result, the proposal would not accord with the development plan, taken as a whole.
24. There are a number of material considerations which offer support to the proposal, namely that the previous use would have had a reliance on private motor vehicles to access the site, that there would be visual improvements to the site arising from the proposed development, that the form of the building and its relationship to the settlement would remain the same as the existing and that it would represent an effective use of land that is previously developed. Collectively, these considerations carry substantial weight in its favour.
25. These material considerations would outweigh the conflict with the development plan if the conflict referred to location, including the reliance on the use of private motor vehicles, and need alone. However, I have found that there would be significant harm arising to the occupiers of the adjacent dwellings as a result of overlooking from the proposal. The benefits I have outlined do not justify this harm and therefore they do not outweigh the failure to accord with Core Policy 3 and Policy BE1 of the LPS and the Design SPD.
26. Therefore, for this reason, the appeal should be dismissed.

Graham Wraight

INSPECTOR

² APP/K3415/A/14/2218964 & APP/K3415/W/15/3070059